

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

SEP 10 2014

JAMES W. MCCORMACK, CLERK  
By: SW DEP CLERK

**MARIA GREENE**

**PLAINTIFF**

**vs.**

**4:14cv-543 KGB**

**PORTFOLIO RECOVERY ASSOCIATES, LLC**

**DEFENDANT**

**COMPLAINT**

COMES NOW, Plaintiff, Maria Greene (Greene), and for her Complaint against Portfolio Recovery Associates, LLC (Portfolio) states:

**I.**

**STATEMENT OF JURISDICTION**

1. Jurisdiction of this Court arises pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.
3. The actions alleged in this Complaint occurred within the State of Arkansas.
4. Venue is proper pursuant to 28 U.S.C. §1391.

This case assigned to District Judge Baker  
and to Magistrate Judge Deere

**II.**  
**PARTIES TO THE CLAIM**

5. Greene is a resident of Little Rock, Pulaski County, Arkansas, and is a “consumer” as defined by 15 U.S.C. §1692a(3), and/or “any person” as defined by 15 U.S.C. §1692d;

6. At the time of the incident described further herein, Portfolio was a corporation duly authorized to conduct business in the State of Arkansas as a “debt collector /debt buyer,” as that term is defined by 15 U.S.C. §1692a(6) and is registered and licensed with the Arkansas State Board of Collection Agencies, and attempting to collect a “debt,” as defined in 15 U.S.C. §1692a(5).

7. Portfolio is being served via its registered agent:

Corporation Service Company  
300 Spring Building, Suite 900  
300 S. Spring Street  
Little Rock, AR 72201

**III.**  
**FACTUAL BACKGROUND**

8. Portfolio filed a lawsuit against Greene in the District Court of Pulaski County, July 8, 2014 alleging a consumer debt.

9. The lawsuit alleges Greene defaulted on a credit card account obligation with the original creditor, GE Capital Retail Bank.

10. Portfolio asserted it purchased and was assigned the account for good and valuable consideration.

11. Attached to the Complaint was an Affidavit stating the original creditor as GE Capital Retail Bank/Lowe’s **Exhibit 1**. The Affidavit was the only attachment to the Complaint.

12. The Complaint requests a principle amount of \$2,976.45, all costs expended herein paid and for “all other proper relief.” **Exhibit 2.**

13. Upon information and belief, the amount stated as “principle” actually contains interest and fee charges.

14. The Complaint filed by Portfolio does not contain the contract which forms the basis of its claim in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure. Because no contract is attached, the relief requested contains amounts not authorized by contract in violation of 15 U.S.C. §1692f(1).

15. By not attaching the contract upon which it is suing, Portfolio is making a false representation of the character, amount, or legal status of the debt in violation of 15 U.S.C. §1692e(2)(A).

16. By not indicating which portion of the amount sued upon represents interest and fees, Portfolio is making a false representation of the character, amount, or legal status of the debt in violation of 15 U.S.C. §1692e(2)(A).

17. Portfolio has attached no evidence that it purchased the debt from GE Capital Retail Bank and; thus, lacking standing, is taking action which cannot legally be taken in violation of 15 U.S.C. §1692e(5).

18. Portfolio is in violation of 15 U.S.C. §1692e(10) by making false representations and engaging in deceptive means in attempting to collect the debt by its inability to document any agreement between Greene and any creditor in violation of Rule 10(d) of the Arkansas Rules of Civil Procedure.

19. At the time it commenced the action against Greene, Portfolio possessed insufficient evidence and intended not to further investigate in violation of 15 U.S.C.

§1692(e)(5).

20. Portfolio's conduct violates the FDCPA for which strict liability applies pursuant to 15 U.S.C. §1692, et seq.

21. Portfolio's conduct violates the FDCPA for which statutory damages apply pursuant to 15 U.S.C. §1692k(a)(2)(A).

**IV.**  
**DAMAGES**

22. As a direct and proximate result of the occurrence made the basis of this lawsuit, Greene is entitled to the following damages:

- i. actual costs, expenses and attorney fees pursuant to 15 U.S.C. §1692(k)(a)(3);
- ii. statutory damages in the maximum amount of: \$1,000.00 pursuant to 15 U.S.C. §1692(k)(a)(2)(A).
- iii. Actual damages pursuant to 15 U.S.C. §1692k(a)(1)

**V.**  
**JURY DEMAND**

23. Greene demands a jury trial.

**VI.**  
**PRAYER**

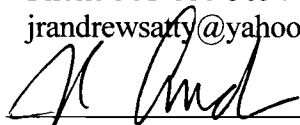
WHEREFORE, Greene prays that:

1. She be granted statutory damages pursuant to the FDCPA;
2. She be granted actual damages;
3. She be granted costs and attorney fees.

Respectfully submitted,

Attorney J. R. Andrews  
2014 Martha Drive  
Little Rock, AR 72212  
Phone 501-680-3634  
jrandrewsatty@yahoo.com

By

A handwritten signature in black ink, appearing to read 'JR Andrews', is written over a horizontal line.

JR. Andrews, AR Bar No. 92041  
*Attorney for Plaintiff*

## AFFIDAVIT

of Virginia  
City of Norfolk ss.

~~Lecinda Shimen-Walker~~

I, the undersigned, \_\_\_\_\_, Custodian of Records, for Portfolio Recovery Associates, LLC hereby depose, affirm and state as follows:

1. I am competent to testify to the matters contained herein.

2. I am an authorized employee of Portfolio Recovery Associates, LLC, ("Account Assignee") which is doing business at Riverside Commerce Center, 120 Corporate Boulevard, Norfolk, Virginia, and I am authorized to make the statements, representations and averments herein, and do so based upon a review of the business records of the Original Creditor **GE CAPITAL RETAIL BANK/LOWE'S** and those records transferred to Account Assignee from **GE CAPITAL RETAIL BANK** ("Account Seller"), which have become a part of and have integrated into Account Assignee's business records, in the ordinary course of business.

3. According to the business records, which are maintained in the ordinary course of business, the account, and all proceeds of the account are now owned by the Account Assignee, all of the Account Seller's interest in such account having been sold, assigned and transferred by the Account Seller on **1/22/2013**. Further, the Account Assignee has been assigned all of the Account Seller's power and authority to do and perform all acts necessary for the settlement, satisfaction, compromise, collection or adjustment of said account, and the Account Seller has retained no further interest in said account or the proceeds thereof, for any purpose whatsoever.

4. According to the records transferred to the Account Assignee from Account Seller, and maintained in the ordinary course of business by the Account Assignee, there was due and payable from **MARIA GREENE** ("Debtor and Co-Debtor") to the Account Seller the sum of **\$2,976.45** with the respect to account number **ending in** \_\_\_\_\_ as of the date of **12/31/2012** with there being no known un-credited payments, counterclaims or offsets against the said debt as of the date of the sale.

5. According to the account records of said Account Assignee, after all known payments, counterclaims, and/or setoffs occurring subsequent to the date of sale, Account Assignee claims the sum of **\$2,976.45** as due and owing as of the date of this affidavit.

6. Plaintiff believes that the defendant is not a minor or an incompetent individual, and declares that the Defendant is not on active military service of the United States.

Portfolio Recovery Associates, LLC

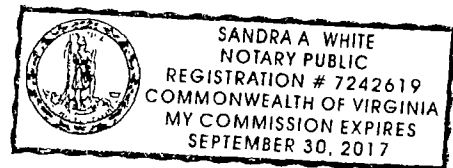
By: \_\_\_\_\_, Custodian of Records

~~Lecinda Shimen-Walker~~

MAR 26 2014

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public



This communication is from a debt collector and is an attempt to collect a debt.  
Any information obtained will be used for that purpose.



IN THE DISTRICT COURT OF PULASKI COUNTY, ARKANSAS

PORTFOLIO RECOVERY ASSOCIATES, LLC

PLAINTIFF

V.

CASE NO. PCCV-141971

MARIA GREENE

DEFENDANT

COMPLAINT

Comes the Plaintiff and for its cause of action against the Defendant, states:

1. That the Plaintiff is a corporation authorized to bring this action under Ark. Code Ann. § 4-32-1008.

2. That the Defendant is a resident of Pulaski County, Arkansas.

3. Jurisdiction and venue are proper in this Court.

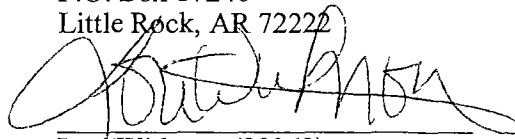
4. That Defendant purchased certain items with extensions of credit obtained on his/her GE CAPITAL RETAIL BANK account. This account was purchased by, and assigned to the Plaintiff for good and valuable consideration.

5. That the amount past due on said account, which has not been paid, and has been owed for a period of time is as follows, principle amount, \$2,976.45, as set out in Plaintiff's Affidavit which is attached hereto and incorporated herein by reference.

6. That demand had been made for the payment of same, yet the balance remains unpaid.

WHEREFORE, Plaintiff prays for Judgment against Defendant in the amount of \$ 2,976.45, for all costs herein paid and expanded, and for all other proper relief.

Allen & Withrow  
Attorneys at Law  
P.O. Box 17248  
Little Rock, AR 72222

  
Lori Withrow (98069)

EXHIBIT

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